

Fiscal Note

BILL # SB 1027

TITLE: carfentanil; fentanyl; threshold amount; minors

SPONSOR: Kern

STATUS: As Introduced

PREPARED BY: Geoffrey Paulsen

Description

The bill increases the sentencing guidelines for the possession for sale, manufacture, administration of a drug to another individual and trafficking if the drug is heroin, fentanyl, carfentanil or a fentanyl mimetic substance. The bill also classifies manufacturing carfentanil, fentanyl or mimetic substances under circumstances that cause physical injury to a minor under 15 as a class 2 felony and makes an offense punishable as a dangerous crime against children. The bill also establishes a drug threshold amount of 0.25 milligrams for carfentanil and mimetic substances and reduces the threshold amount for regular fentanyl from 9 grams to 2 milligrams.

Estimated Impact

The bill would increase costs for the Arizona Department of Corrections (ADC) by extending the time individuals convicted of crimes serve in state prison. Due to a lack of information, however, we are unable to estimate the magnitude of the cost. The fiscal impact would depend on how many individuals are charged under the revised sentencing guidelines, and whether the increased sentences increase the inmate population enough to require the department to procure additional beds. Any impact on inmate population levels would begin in several years as individuals are charged and they move through the legal process.

Neither ADC nor the Administrative Office of the Courts was able to assist with the fiscal impact of the bill. They lack information to quantify how this bill would affect the prison population.

Analysis

Under current law, a person convicted of the possession for sale or manufacture of a narcotic drug as a first offense is eligible for a presumptive sentence of 5 years in prison. The bill would increase the presumptive sentence to 10 years if the drug involved is fentanyl, carfentanil, or a fentanyl mimetic substance.

According to ADC, in December 2022 there were 4,125 total inmates in custody for crimes related to drug sales and trafficking. ADC does not have information on the specific drug offense for these inmates. As a result, ADC was unable to provide data on how many of those would have been eligible for the longer sentence under the bill.

In addition to these changes, the bill also adds the manufacture of fentanyl, carfentanil and fentanyl mimetic substances that causes harm to a minor under 15 as a dangerous crime against children (DCAC). This change could further extend the prison sentence imposed beyond the 5 year increase. If the victim is under 12 years of age the crime would be eligible for a sentence of life in prison; if a life sentence is not imposed, however, the punishment for this crime would be 13-27 years, with a presumptive sentence of 20 years for a first offense.

The bill would also make changes to the statutory thresholds for certain drugs. If the amount of drug involved in the crime is above the threshold, law enforcement and prosecutors can presume that the drug is for sale rather than for

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personal use. The current statutory threshold is 9 grams for both fentanyl and fentanyl mimetic substances. The bill would lower these thresholds to 2 milligrams for fentanyl and 0.25 milligrams for a fentanyl mimetic substance. The bill would further establish a statutory threshold of 0.25 milligrams for carfentanil.

Local Government Impact

The bill could increase county costs for prosecuting offenders under the revised sentencing guidelines due to the potential for additional and more complicated trials. We are unable to estimate the impact in advance.

2/1/23